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In re Application of	:	
AIDAM, et al.	:	DECISION ON PETITION
Application No.: 09/509,317	:	
PCT No.: PCT/EP98/06056	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 24 September 1998	:	
Priority Date: 26 September 1997	:	
Attorney Docket No.: 342.1.005	:	
For: MAGNETICALLY SHIELDED CONTAINER	:	

This decision is in response to applicant's "Petition to Revive an Unintentionally Abandoned Application" filed 02 February 2001 with the United States Patent and Trademark Office (USPTO) and again by facsimile on 17 July 2002. Applicant included the \$620.00 small entity petition fee.

### **BACKGROUND**

On 24 September 1998, applicant filed international application PCT/EP98/06056, which claimed priority of an earlier application filed 26 September 1997. A Demand for international preliminary examination, in which the United States was elected was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 March 2000.

On 23 March 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by payment of the full U.S. Basic National Fee; a copy of the International Search Report and a First Preliminary Amendment. An oath or declaration of the inventors was not included.

On 17 May 2000, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date and providing a surcharge of \$130.00 for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. Applicant was given one month to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 19 January 2001, the application became abandoned as to the United States for failure to respond to the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) mailed 17 May 2000.

On 02 February 2001, applicant filed the present petition accompanied by: a check in the amount of \$620.00 as payment of the petition to revive fee; an executed combined declaration and power of attorney; an assignment document for recording and a check in the amount of \$65.00 as payment of the surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date and \$40.00 as payment of the assignment recordation fee.

### DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the required reply was submission of compliant oath or declaration. Applicant has included the combined declaration and power of attorney along with the present petition.

As to Item (2) the appropriate petition fee of \$620.00 as required by 37 CFR 1.17(m) has been submitted.

With regard to Item (3), applicant's statement that, "the abandonment was unintentional" is being interpreted to mean that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the PCT Legal Office immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

**CONCLUSION**

For the reasons stated above, the petition for revival is **GRANTED**.

This application has an international application filing date of 24 September 1998 and will be given a date of **02 February 2001** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for further processing in accordance with this decision.

A handwritten signature in black ink, appearing to read 'Derek A. Putonen', is positioned above the printed name.

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